

To: Fessler, Andrew[Fessler.Andrew@epa.gov]
From: Enck, Judith
Sent: Wed 12/16/2015 2:38:18 AM
Subject: Fwd: News Clips

Send me just the hoosick falls article and the nj solvay article. Also I need briefing book by Thursday 5pm. Fx

Sent from my iPhone

Begin forwarded message:

From: Region2 PAD News <Region2_PAD_News@epa.gov>
Date: December 15, 2015 at 11:31:33 AM EST
To: "R2 EPA Region 2 (EPA Staff)" <R2_EPA_Region_2_EPA_Staff@epa.gov>
Subject: News Clips

Responding to EPA official, DEP refuses to comply with power plan

POLITICO

By David Giambusso

Dec. 11, 2015

The state Department of Environmental Protection fired off a strongly worded refusal to comply with President Obama's Clean Power Plan Friday after POLITICO New Jersey reported Thursday that the agency was in talks with the Environmental Protection Agency about the plan.

"I'm reaching out to you today regarding a story that was published on Politico on December 10, 2015, headlined - 'Despite objections, Christie's DEP working on Clean Power Plan,' DEP Commissioner Bob Martin wrote in a letter to the Environmental Protection Agency Region II administrator Judith Enck. "So there is no confusion, I want to be clear: New Jersey is not in any way, shape or form working with EPA on complying with the so-called Clean Power Plan."

The letter from Martin comes after Enck, in response to questions from a reporter, said Thursday that the two agencies had been in talks over the plan, which seeks to cut greenhouse gas emissions from the nation's power generators by 32 percent.

"We're already in very close discussions with the New Jersey Department of Environmental Protection because they're the ones who have to submit the plan," Enck said after remarks at the Pace Energy and Climate Center on Thursday. "We are expecting them to submit a plan and if they don't we'll have one for them."

Reached by phone on Friday, Enck said, "I stand by my quotes."

When asked about the remarks on Thursday, the DEP was less vociferous in its response. A spokesman told POLITICO New Jersey then, "We are evaluating the proposed rule and still have many questions about it."

On Friday Martin issued the letter refusing to comply.

"While we have had numerous discussions with your staff to try to understand this complex and poorly-written rule, we have not and will not submit a state plan," Martin wrote.

The plan has become a partisan football as Gov. Chris Christie runs for president. The Christie administration's opposition to the plan was framed as a critique of Obama.

"The Obama administration's Clean Power Plan is fundamentally flawed and represents an unlawful overreach of authority," Christie said in a statement in October announcing he would join a 24-state coalition suing over the plan.

Any appearance that New Jersey was considering compliance would not play well for Christie politically.

Despite the rhetoric, if the Clean Power Plan survives the multi-state lawsuit, New Jersey will have to either come up with a plan to cut roughly 20 percent of its emissions or the EPA will come up with one for them.

"We're really good at writing plans and really good at enforcing them," Enck said Thursday, but added that she was hopeful all 50 states would submit a plan on their own.

Judith Enck. (AP Photo/Mike Groll)

E.P.A. Broke Law With Social Media Push for Water Rule, Auditor Finds

NYT

By ERIC LIPTON and MICHAEL D. SHEAR

DEC. 14, 2015

WASHINGTON — The Environmental Protection Agency engaged in "covert propaganda" and violated federal law when it blitzed social media to urge the public to back an Obama administration rule intended to better protect the nation's streams and surface waters, congressional auditors have concluded.

The ruling by the Government Accountability Office, which opened its investigation after a report on the agency's practices in The New York Times, drew a bright line for federal agencies experimenting with social media about the perils of going too far to push a cause.

Federal laws prohibit agencies from engaging in lobbying and propaganda.

"I can guarantee you that general counsels across the federal government are reading this report," said Michael Eric Hertz, a professor at the Benjamin N. Cardozo School of Law in New York who has written on social media and the government.

An E.P.A. official on Tuesday disputed the finding. "We use social media tools just like all organizations to stay connected and inform people across the country about our activities," Liz Purchia, an agency spokeswoman, said in a statement. "At no point did the E.P.A. encourage the public to contact Congress or any state legislature."

Photo Thomas Reynolds, a former communications director at the Environmental Protection Agency, moved to add political campaign-style tactics to the agency's public relations operation. Credit Alex Wong/Getty Images

But the legal opinion emerged just as Republican leaders moved to block the so-called Waters of the United States clean-water rule through an amendment to the enormous spending bill expected to pass in Congress this week. While the G.A.O.'s findings are unlikely to lead to civil or criminal penalties, they do offer Republicans a cudgel for this week's showdown.

"G.A.O.'s finding confirms what I have long suspected, that E.P.A. will go to extreme lengths and even violate the law to promote its activist environmental agenda," Senator James M. Inhofe of Oklahoma, who is chairman of the Senate Environment and Public Works Committee and is pressing to block the rule, said in a statement Monday. He decried "E.P.A.'s illegal attempts to manufacture public support for its Waters of the United States rule and sway congressional opinion."

The E.P.A. rolled out a social media campaign on Twitter, Facebook, YouTube, and even on more innovative tools such as Thunderclap, to counter opposition to its water rule, which effectively restricts how land near certain surface waters can be used. The agency said the rule would prevent pollution in drinking water sources. Farmers, business groups and Republicans have called the rule a flagrant case of government overreach.

The publicity campaign was part of a broader effort by the Obama administration to counter critics of its policies through social media tools, communicating directly with Americans and bypassing traditional news organizations.

At the White House, top aides to President Obama have formed the Office of Digital Strategy, which promotes his agenda on Twitter, Facebook, Medium and other social sites. Shailagh Murray, a senior adviser to the president, is charged in part with expanding Mr. Obama's presence in that online world.

Thomas Reynolds, who as E.P.A. communications director directed many of the tactics decried by the G.A.O., recently moved to the White House to push the president's global warming message with many of the same tools he deployed at his former agency.

White House officials declined to say if they think Mr. Reynolds or other agency officials did anything wrong.

Federal agencies are allowed to promote their own policies, but are not allowed to engage in propaganda, defined as covert activity intended to influence the American public. They also are not allowed to use federal resources to conduct so-called grass-roots lobbying — urging the American public to contact Congress to take a certain kind of action on pending legislation.

As it promoted the Waters of the United States rule, also known as the Clean Water Rule, the E.P.A. violated both of those prohibitions, a 26-page legal opinion signed by Susan A. Poling, the general counsel to the G.A.O., concluded in an investigation requested by the Senate Committee on Environment and Public Works.

“E.P.A. appealed to the public to contact Congress in opposition to pending legislation in violation of the grass-roots lobbying prohibition,” the report says.

In a letter to the G.A.O. as the review was underway, Avi S. Garbow, the E.P.A.’s general counsel, said the agency had looked back at its social media campaign and concluded that it had complied with all federal laws, calling it “an appropriately far-reaching effort to educate the American public about an important part of E.P.A.’s mission: protecting clean water.”

The rule in question has been adopted by the agency, but its implementation was suspended nationally in October by a federal appeals court after opponents of the plan challenged it.

The G.A.O. report details two specific violations that took place as the E.P.A. was preparing to issue the final rule. The first involved the Thunderclap campaign in September 2014, in which the E.P.A. used a new type of social media tool to quickly reach out to 1.8 million people to urge them to support the clean-water proposal. Thunderclap, described as an online flash mob, allows large groups of people to share a single message at once.

“Clean water is important to me,” the Thunderclap message said. “I support E.P.A.’s efforts to protect it for my health, my family and my community.”

The effort violated federal law, the G.A.O. said, because as it ricocheted around the Internet, many people who received the message would not have known that it was written by the E.P.A., making it covert propaganda. The E.P.A. disputes this finding, noting that it sent out the original Thunderclap message and was hardly hiding its role.

The agency is also said to have violated the anti-lobbying law when one of its public affairs officers, Travis Loop, wrote a blog post saying he was a surfer and did not “want to get sick from pollution.” That post included a link button to an advocacy group that discussed the danger that polluted water posed to surfers and, at least at one point, also included text that said “Take Action,” telling the public to “tell Congress to stop interfering with your right to clean water.”

Such findings by the G.A.O. are infrequent but not without precedent. During George W. Bush’s administration, the G.A.O. concluded similarly that the Centers for Medicare and Medicaid Services violated the anti-propaganda act in 2004 when it covertly paid for news videos distributed to television stations without disclosing that the government had financed the work. In 2005, the Department of Education was found to have violated the same law

when it hired a public relations firm to covertly promote the No Child Left Behind Act of 2001.

The entire amount spent on the social media campaign in question is likely trivial. But whatever the cost, the G.A.O. asserted that it violated a federal Antideficiency Act, which prohibits federal agencies from spending money without authorization. Penalties include fines and even possible jail time. But even Republicans on Capitol Hill say it will not be enforced that way.

The G.A.O. has instead instructed the E.P.A. to find out how much money was spent by staff involved in these violations, then write a report to Mr. Obama and Congress acknowledging the violation.

The E.P.A. has not yet decided if it will agree to take such a step, said Ms. Purchia, the E.P.A. spokeswoman.

EPA Social-Media Campaign on Water Rule Broke Law – Report

WSJ

By Amy Harder

The Environmental Protection Agency engaged in a social-media campaign that broke the law as it developed a water regulation issued earlier this year, according to a government watchdog report released Monday.

The report, issued by the nonpartisan Government Accountability Office, concluded that EPA broke at least two laws in the way it was promoting and responding to criticisms about its water regulation. The report said the agency didn't properly disclose its role as the source of information, and it engaged in what the report described as grassroots lobbying that federal agencies are forbidden from undertaking.

The rule, issued in May but delayed indefinitely by a federal court in October, would put about 3% more waterways throughout the U.S. under federal jurisdiction. The rule would require a federal permit to pollute the waters, located at the outer edges of watersheds, and could restrict access altogether. Major waterways, like most rivers and lakes, are already under protection of the Clean Water Act and aren't affected.

The government watchdog report was requested by Senate Environment and Public Works Chairman James Inhofe (R., Okla.) following a New York Times article in March that raised questions about EPA's use of social media websites, including Facebook and Thunderclap, a site that allows a single message to be shared across multiple social-media websites at once.

In a statement, an EPA spokeswoman said the agency disagreed with the report's assessment "and we will fulfill whatever reporting requirements are necessary."

A group of 18 states is suing EPA to stop the water rule, arguing that it constitutes federal

overreach that infringes on states' rights. In blocking the rule in October, a federal appeals court didn't address the merits of the lawsuit.

The legal issues at issue in that lawsuit are separate from those the report raised Monday.

This June 11, 2015, photo shows a dry water ditch next to a corn field in Cordova, Md. The U.S. Environmental Protection Agency and Army Corps of Engineers have developed a regulation to protect some streams, tributaries and wetlands under the Clean Water Act.
—Associated Press.

OPINION

Times-Union Editorial: A small town's grim story

December 14, 2015

Hoosick Falls residents worry their drinking water is deadly.

Will village officials look beyond their concerns about image?

What's happening in Hoosick Falls has all the makings of a movie: Concerned citizens, alarmed by a rash of unusual cancers among family and friends, start digging and find a possible link to industrial pollution. Clueless officials worried about image throw up obstacles to the search for truth.

If only this was just a movie. This is real life, with potentially grave consequences for real human beings.

If there's a hero in this story, it's Michael Hickey, whose father was among those who seemed to die too young, and of uncommon cancers, in this village of 3,500 people. His search led him to the Saint-Gobain Performance Plastics plant at which his father had worked and which lies not far from a well that feeds the village's water treatment plant, and to a chemical once used there, perfluorooctanoic acid, or PFOA. It has been linked to various health problems including kidney and testicular cancer, and thyroid diseases. Manufacturers stopped making or using it a decade ago.

Thanks to Mr. Hickey, who kept collecting samples, and a grass-roots group, Healthy Hoosick Water, which pressured the village and Saint-Gobain to do more tests, residents do know more: that PFOA contamination ranges from 540 parts per trillion or more coming out of taps to 18,000 ppt in groundwater under the Saint-Gobain plant. The federal guideline is 400 ppt.

Yet even with the U.S. Environmental Protection Agency urging the village to stop using tap water for drinking and cooking until the treatment plant consistently produces safe water, village leaders seem unenthused. The EPA had to tell Mayor Borge to clean up misleading information on the village website.

Saint-Gobain has been providing bottled water to residents, and has pledged to install a \$2

million carbon filter at the treatment plant that would remove an estimated 80 percent of the PFOA. That project, though, could take a year.

The village must do more. It should give residents clearer guidance on the risks. It should identify and test private wells, waterways, and fish. It should use temporary filters at the treatment plant.

The state has a job here, too — it needs to revisit standards that don't even require testing for PFOA and allow up to 50,000 ppt. And it needs to help the village plan long-term monitoring.

How this will turn out, we don't yet know. But if nothing else, Mayor Borge and the village board might consider how they'd likely be portrayed in a movie about Hoosick Falls. So far, it's a fair bet they won't look like one of the good guys.

NJDEP establishes threshold for chemical in water

Courier-Post

By Carly Q. Romalino

December 14, 2015

(Photo: Douglas Bovitt/Courier-Post Douglas Bovitt/Courier-Post)

EAST GREENWICH - More than a year after a toxic chemical was discovered in drinking water in seven Gloucester County towns, state officials have decided how much of the chemical is too much for public consumption.

The New Jersey Department of Environmental Protection has set an interim threshold for PFNA (Perfluorononanoic acid), deciding to drop its first proposed 20 parts per trillion standard to 10 parts per trillion. Water quality readings in several towns last year were well above the NJDEP's limits.

NJDEP blames Solvay Specialty Polymers for contaminating public water supplies and private wells with PFNA, a chemical used for waterproofing, stain and grease resistance and firefighting foams. While Solvay did not manufacture PFNA, its West Deptford plant is the only industrial facility in the area to use it as a production process aid. It used PFNA until 2010.

Solvay and the Chemistry Council of New Jersey have appealed the standard, Solvay officials told the Courier-Post.

In 2013, an environmental watchdog group's review of Solvay's NJDEP filings revealed the chemical in drinking water sources in Paulsboro, Woodbury and Greenwich.

At the time, the state did not have a Maximum Contaminant Level threshold set for PFNA. It was later proposed at 20 parts per trillion.

The state posted advisories in Paulsboro, where the concentration was highest at 150 parts per trillion. Residents were advised not to allow children and babies to drink the water. Solvay paid for cases of water to be dispensed for free to borough residents.

Last year, the chemical was found in public water sources in Logan, East Greenwich, Deptford and West Deptford.

Solvay tested 90 private wells, reporting to the NJDEP that 14 wells — all in West Deptford — exceeded the proposed standard. The highest readings came in at 450, 650 and 1,500 parts per trillion, the latter at 75 times the first-proposed standard, according to the state.

Solvay Specialty Polymers USA in West Deptford.jpgBuy Photo

Solvay Specialty Polymers plant in West Deptford. (Photo: Denise Henhoeffter/Courier-Post)

The NJDEP lowered the interim PFNA standard to be "more protective of public health and the environment," according to the agency's spokesman Larry Hajna.

In the last year, the NJDEP's Drinking Water Quality Institute created three panels to investigate the health impact of PFNA, according to a July letter from the institute's chairman to NJDEP Commissioner Bob Martin.

The NJDEP's decision to drop the standard to 10 parts per trillion was based on the institute's finding.

While the chemical is found in ground and surface water sources in the United States and worldwide, "PFNA has been found more frequently and in higher concentrations in New Jersey drinking water than elsewhere," the institute chairman wrote.

While Solvay maintains the chemical is not as volatile as the NJDEP claims, the institute stated in its July report "exposure to relatively low drinking water concentrations is expected to substantially increase human body burden."

In mice, PFNA impacts the liver, immune system, kidneys and testes, the report continued.

"We have been waiting with bated breath for the NJDEP to set a groundwater standard for this dangerous chemical," East Greenwich Mayor Dale Archer said in a statement.

"I sincerely hoped the standard would be much higher than 10 parts per trillion and well No. 3 would be considered safe for human consumption. Unfortunately that does not seem to be the case."

Archer — and the NJDEP — maintain Solvay is the cause of PFNA contamination. Archer met with Solvay officials on Dec. 10 to ask the company to pay for a \$2 million well filtration system, the corporation reported.

The township can't borrow the funds and purchasing water from New Jersey American Water is too costly, the mayor said.

"I am finished with begging Solvay to clean up its mess," Archer said.

"Solvay can afford to take a risk, but East Greenwich cannot."

Solvay spokesman David Klucsik told the Courier-Post the corporation contacted the township after municipal officials threatened legal action during public meetings.

The company, saying it "never agreed that a link to Solvay's plant had been established," agreed to put a treatment system in one of Paulsboro's wells.

Solvay disagrees with NJDEP's standard for PFNA, calling it "unprecedented," "not supported by science," and established through an unlawful process, according to a statement.

It contends the Agency for Toxic Substances and Disease Registry claims insufficient science to recommend a standard for PFNA, and the U.S. Environmental Protection Agency, National Institute for Health and National Toxicology Program have not determined it is toxic to humans.

Schumer seeks possible Superfund designation for Glory Days site

By Observer-Dispatch

Dec. 14, 2015 at 3:44 PM

U.S. Sen. Charles E. Schumer, D-N.Y., Monday urged the federal Environmental Protection Agency to visit the former Glory Days building site in the village of Herkimer to investigate whether it could qualify for the Superfund Removal Cleanup list.

Schumer said in a news release as a small village, Herkimer has neither the technical equipment nor financial resources to properly remove the potentially contaminated rubble or properly fund the expeditious removal of debris and remediation of this site.

Therefore, Schumer is pushing the EPA to visit the site and, if warranted, to add it to the Superfund cleanup list, which would allow the federal agency to remove the debris at no cost to the village.

Nugent said Buckeye Partners, the backup bidder, had also been invited to testify.

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GE's shadow will remain over Fort Edward

December 13, 2015 7:00 am • KATHLEEN MOORE kmoore@poststar.com

FORT EDWARD | GE is leaving Fort Edward, but it will play a lingering role in the region for many years to come.

The company can't take its pollution with it, so it must continue to mitigate the effects on everything from fish to people.

GE must still maintain its TCE ventilation systems, installed in houses where private wells were contaminated by the company.

TCE is a toxic industrial solvent used at the Fort Edward plant. The chemical spread under the plant and away into a residential neighborhood nearby, polluting wells and sending toxic fumes up into the houses. The fumes are considered likely to cause cancer, according to the EPA.

Dozens of homes were found to have TCE fumes, and GE was required to install the ventilation systems for any property owner who wanted one.

That's left many owners unable to sell, said resident Len Joiner, who was one of the very few who sued GE over the issue.

He came to a confidential settlement. He also asked for a ventilation system, and GE provided town water to his house because his well was contaminated.

But one of his daughters died of cancer — which was never proven conclusively to be caused by TCE — and he sees his house as virtually unsellable.

He wishes GE had been required to clean up its mess instead of providing water and ventilation systems.

"It's been a terrible experience and really GE has ruined the goddamn area," he said. "I think they should be responsible to maintain a halfway decent place for the people who live here."

While he also regrets the loss of jobs, he said he wasn't completely sorry that GE is leaving.

"They were just brutal," he said, citing the various impacts to the environment and the economic pain years ago when GE began to lay off hundreds of workers in the company town. "They have really, really crippled this whole area."

The TCE ventilation systems pull the vapors out of residents' basements and vent them outdoors, where the Department of Environmental Conservation believes the vapor disperses before it can hurt anyone. Joiner has continued to live in his house, as have many of his neighbors. A few have sold, but he suspects the buyers didn't truly realize the situation.

"Who'd want to buy a house with a stack on it?" he said of the ventilation systems.

Every five years, DEC evaluates whether that system should continue.

For now, DEC officials said GE must continue to maintain the systems and offer them to any new property owners who buy a house in the area. Once a year, the company must ask if owners want a ventilation system, according to the agreement with DEC.

Then there's the river. GE dumped PCBs into the Hudson River for years, until 1977. Now those PCBs have spread through the river's ecology. The fish are so contaminated that state officials say they are too dangerous to eat — and will remain so for years to come. PCBs on the floodplains — the beaches and grassy areas at the river's shores — are considered so dangerous that they must be covered up by special blankets, rock and sand before allowing people to walk barefoot. Digging isn't allowed in those areas, for people's safety.

Although GE has finished the dredging required by the Environmental Protection Agency to remove some PCBs from the river itself, the company must finance regular monitoring of the river. That monitoring will likely go on for decades, as workers test the fish to measure their level of contamination. The river bottom must also be checked to be sure that patches of rock and sand, placed over heavily contaminated areas, remain intact.

GE jobs will likely reappear in the area in a few years to deal with floodplain contamination.

EPA officials want GE to clean up the river's shoreline so that it's safe for recreation and future commercial or residential use. Like the dredging, this would be a years-long project in which workers dig up contaminated dirt and haul it away.

The company will likely have to clean up 6,000 acres on 3,000 different properties representing 80 miles of shoreline.

That project probably won't start for another five years, said EPA project Director Gary Klawinski.

And it will take years to complete.

"To us, there really is a lot of work ahead of us," Klawinski said.

OPINION

Times Union

Commentary: Make GE extend Hudson cleanup or pay billions in fines

By Brad Hoylman

State Sen. Brad Hoylman, D-Manhattan, represents New York's 27th Senate District and is the ranking member of the Senate Environmental Conservation Committee.

December 13, 2015

For much of the 20th century, the mighty Hudson River was a proverbial — and often literal — dumping ground of industrial waste, toxic chemicals and raw sewage. In parts of the lower Hudson, not far downriver from an automobile plant, it was said that you could tell which color the cars on the line were being painted that week by the hue of the water lapping the shoreline.

The rampant pollution of the Hudson hit its peak in the 1960s, coinciding with the rise of the modern environmental movement and the enactment of strong state and federal ecological protections. Today, the painted waters of the Hudson have thankfully vanished, though insidious remnants of the river's toxic legacy remain.

Earlier this month, the U.S. Environmental Protection Agency approved a plan by General Electric to dismantle dredging facilities in Fort Edward. For the past six years, the company had used the facilities to clean up millions of pounds of PCBs — toxic chemicals GE was responsible for dumping into the river for over three decades.

The casual observer can be forgiven for assuming that if the EPA was giving an OK for the dredging facilities to be demobilized, then the federally mandated cleanup must be complete. That's certainly what GE would have the public believe.

In reality, the environmental damage the company caused along a 200-mile length of the Hudson River is far from remedied, and recent studies suggest the extent of the damage may be worse than originally thought.

In May, another federal agency — the National Oceanic and Atmospheric Administration — issued an updated analysis which demonstrated that the predictive models the EPA used to set the terms of GE's dredging efforts were flawed. As a result, the EPA significantly underestimated the scope and the efficacy of dredging needed to meet the agency's health and safety targets.

The NOAA analysis warns that the amount of PCBs left in the Upper Hudson River after GE packs up and leaves is likely to be three to five times higher than the EPA initially forecast, while the natural rate of recovery of the river is now expected to take generations longer — an additional 40-50 years.

That would mean decades more of a decimated commercial fishing industry, chemical-laden wildlife, and an increased risk of cancer and other diseases for the millions of New Yorkers who live in communities along the river. All told, a century of damage.

We shouldn't settle for such blatant disregard for our personal health and the environmental well-being of one of our state's greatest natural resources.

While GE is currently dismantling its facilities in Fort Edward, the company still needs certification from the EPA to formally conclude its mandated dredging — a process that could take up to a year. Prior to issuing that certification, the EPA should at a minimum heed the red flags raised by NOAA and others and conduct a formal review of the Hudson River to evaluate the implementation and performance of the dredging efforts, determine how much risk remains to human health and the environment, and expand GE's dredging requirements as necessary.

Even if the federal EPA fails to act, there is still a role for New York state. The state Department of Environmental Conservation is one of three designated trustees — along with NOAA and the U.S. Department of the Interior — charged with evaluating the impact of GE's pollution on the Hudson River in what is known as a Natural Resource Damage Assessment (NRDA).

As the sole representative of New York state among the three trustees, DEC should make its voice heard in the fight to ensure New Yorkers get what they are owed for GE's malfeasance. To date, the agency has been largely silent on the issue, even as NOAA and the Department of the Interior have called for GE to continue its dredging until it has restored the natural resources it contaminated.

The NRDA that DEC will help shape will be used to assess the financial compensation GE owes New York for decades of irresponsible PCB dumping. It stands to reason that the less thorough a cleanup the company performs, the more it will ultimately owe. Given the recent \$8.8 billion penalty the energy company BP was levied as a result of a NRDA for the 2010 Deepwater Horizon oil spill, it's not unthinkable that GE could face a penalty in the billions of dollars.

That threat should spur the company — and its shareholders — to continue the cleanup effort. Ultimately, the issue is one of basic justice and fairness. GE knowingly polluted the Hudson River for decades, then spent years trying to fight attempts to make them clean it up.

Its intransigence has resulted in untold costs to the river's ecology, our state's economy, and the health of New Yorkers. That the company should be held responsible for fully cleaning up the mess they created is a matter of law, good corporate citizenry, and basic human decency.

The river no longer runs sports car red or pickup truck green to warn us of the contamination man has caused it, but that should not and cannot be enough. New Yorkers must speak with one voice and declare that a century of damage is unacceptable.

How Much Will the Paris Climate Deal Cost the U.S.?

By William Mauldin

December 14, 2015, 11:33 AM ET

Wall St. Journal

President Barack Obama delivers a statement on the climate agreement at the White House on Saturday. YURI GRIPAS/REUTERS

Now that officials from the U.S. and nearly 200 other countries have reached a deal in

Paris meant to keep global warming at bay, many citizens back home want to know—how much will it cost us?

No one knows for sure, but one estimate from an environmental think tank in Washington pegs the cost as a \$170 billion hit to U.S. gross domestic product in 2030, or about 0.7% of the total economic output that year.

“You don’t collapse an economy by switching to cleaner fuels,” said Karl Hausker, senior fellow at the World Resources Institute, which published the estimate. “Every time the business community has rung warnings bells, and frankly the economy keeps going.”

The idea behind the Paris talks is that all countries have to participate in a United Nations-organized effort to curb emissions of greenhouse gases linked to global warming. To get everyone on board, each country was allowed to develop its own plan, and countries aren’t compelled to meet their targets, which cover the period after 2020.

Few political leaders are interested in ordering up deep, painful cuts to emissions in ways that could unleash high electricity prices, stunt industrial growth or prevent impoverished citizens from clawing their way into the middle class.

So most countries, under pressure from peers as well as domestic critics, settled on cuts likely to cause small to moderate economic pain in the medium term, with the potential for big benefits in the longer term if all the major economies comply and humankind keeps the effects of climate change at bay.

The U.S. pledge is built around President Barack Obama’s “clean power plan,” which focuses on steep reductions in carbon dioxide emissions from the electricity sector—mainly coal. The U.S. government estimates the impact of the power rule—issued by the Environmental Protection Agency—at between \$28 billion and \$39 billion in 2030, or 0.1% to 0.2% of projected GDP.

If the power-plant rule survives court challenges, it could weigh on coal-related jobs, but the U.S. Energy Information Administration’s economic model finds no appreciable effect on overall employment.

Besides the power-plant rules, the U.S. pledge in the Paris accord relies on regulations mandating more-efficient automobiles and trucks, plus other efforts to stem greenhouse-gas emissions.

In May, the World Resources Institute constructed an economic model that shows the effect of the overall target that the U.S. submitted in Paris, although without the final details of how it's achieved.

That projection resulted in the \$170 billion hit to GDP in 2030, not considering the potential gains from better public health or an improved climate. By 2040, the impact on GDP would decrease significantly, Mr. Hausker said.

The impact over 15 years is small enough to be easily overshadowed by other economic factors, especially energy prices. Persistently low energy prices would likely increase the relative cost of switching to wind, solar or other forms of renewable energy.

On the other hand, lower natural-gas prices in the U.S. are already encouraging an energy shift that reduces U.S. emissions, since burning gas releases less carbon dioxide than coal and oil with the same energy content.

The former International Nickle Inc., property was purchased by the Watchtower Bible and Tract Society, with plans to build its world headquarters there. TIMES HERALD-RECORD
FILE PHOTO

Battle over contamination at Watchtower site in Warwick

By Hema Easley

Times Herald-Record

Posted Dec. 14, 2015 at 8:20 PM

WARWICK - A slew of companies sued by Watchtower Bible and Tract Society say they don't bear responsibility for contaminating the Warwick site where the religious group is

building its massive world headquarters, and will therefore not pay for it.

Watchtower, better known as Jehovah's Witnesses, has agreed to dismiss the case against one of the companies, Vale Canada, because New York courts do not have jurisdiction over foreign businesses. Vale Canada is the parent company of International Nickel Inc., which owned the Warwick property from the mid-1960s to the mid-1980s.

The suit was filed in New York's Southern District in June against International Nickel and 10 other companies that Watchtower says are affiliated with the mining company. Some of the companies named in the lawsuit are Inco Alloys International, Inc., Huntington Alloys Corporation, Special Metals Corporation, Precision Castparts and Inco United States.

International Nickel had a foundry and a research-and-development operation on the site. Watchtower purchased the property in 2009.

The companies named in the lawsuit say they either didn't own the business, or didn't pollute the land, or are not liable. At least one of the companies – Huntington Alloys Inc. - doesn't exist, according to a court filing by Huntington Alloys Corporation.

Watchtower did not return a call for comment.

In its lawsuit, Watchtower says International Nickel ran a wastewater-treatment plant at the site to handle effluent, and also owned underground tanks to store fuel and other hazardous material.

Watchtower claims that International Nickel discharged petroleum and oils containing polychlorinated biphenyls - or PCBs - into the wastewater treatment plant, and into the soil and groundwater, thereby contaminating the environment at the property. PCBs, which are probable human carcinogens, according to the Environmental Protection Agency, were banned in the United States in 1979.

It isn't clear when Watchtower discovered the contamination. It contacted the state Department of Environmental Conservation in 2012, according to the lawsuit.

Watchtower is seeking unspecified reimbursement for the cost it has incurred in the cleanup and remediation. It is also seeking damages, restitution and attorney fees.

Warwick Supervisor Mike Sweeton said the site has been cleaned as part of the approval process. Watchtower is building offices, apartments to house 1,000 adults, a cafeteria, a vehicle-maintenance building, an infirmary and a parking garage at the site.

Construction is expected to be completed by the end of 2016.

NYT

Scientists Hope to Bring a Galápagos Tortoise Species Back to Life

By SANDRA BLAKESLEE

DEC. 14, 2015

Inside Photo ↪Two male tortoises craning their necks in a display of aggression. Credit Dr. Joe Flanagan

The dodo is dead. The passenger pigeon has passed on. But Lonesome George, the iconic Galápagos tortoise whose death marked the end of his species, is in post-mortem luck.

A scientific expedition has discovered some of his close blood relations alive and well. With careful breeding, biologists now hope to revive George's species and reintroduce the tortoises to the island on which they evolved.

It would be a signal achievement in a place that gave rise to our understanding of evolution and speciation.

Originally there were at least eight species of Galápagos tortoise, scientists now believe. (One was discovered only this year.) At least three species are now extinct, including tortoises on Pinta Island. The last one, George, was discovered wandering alone in 1972 and taken into loving custody. His death, in 2012 at more than 100 years old, was a powerful reminder of the havoc visited by humans on delicate ecosystems worldwide over the last two centuries.

Tortoise numbers plummeted from more than 250,000 in the 16th century to a low of around 3,000 in the 1970s. In the 19th century, whalers, pirates and other seafarers plucked the animals from their native islands for use as ballast and food on long journeys.

Tortoises can live in a ship's hold for more than a year without food or water, making them the perfect takeaway meals.

Photo Lonesome George, the last known Pinta Island tortoise, died in 2012. Credit Rodrigo Buendia/Agence France-Presse — Getty Images

There are two types of Galápagos tortoises: saddlebacked and domed. The sailors much preferred the smaller saddlebacks, which were easier to lug around and said to taste better. They were also easier to find: Domed tortoises live at higher elevations and can weigh 300 pounds. Saddlebacks evolved at lower elevations and feed on drier vegetation.

Saddlebacked tortoises disappeared from Santa Fe Island and Floreana Island, a favorite hangout for sailors posting letters for other ships to carry home. With George's death, the Pintas were gone, too.

But now the story of extinct Galápagos tortoises has taken a strange, and hopeful, twist.

More than a century ago, it turns out, sailors dumped saddlebacked tortoises they did not need into Banks Bay, near Wolf Volcano on Isabela Island. Luckily, tortoises can extend their necks above water and float on their backs. Many of them made it to shore, lumbered across the lava fields and interbred with Isabela's native domed tortoises.

In 2008, scientists tagged and collected blood samples from more than 1,600 tortoises living on the flanks of the volcano. Back in the laboratory, there was a genetic eureka: Eighty-nine of the animals were part Floreana, whose full genetic profile DNA had been obtained from museum samples.

Some had genes indicating their parents were living purebred Floreana tortoises, hinting that the species may not be extinct after all.

Seventeen tortoises were shown to have high levels of Pinta DNA. Tortoises can live for more than 150 years, so some of them may well be George's immediate next of kin.

Last month, scientists went back to find them. Their plan was to capture and separate tortoises with high levels of Pinta and Floreana DNA, and then breed animals that are genetically closest to the original species.

In just a few generations, it should be possible to obtain tortoises with 95 percent of their "lost" ancestral genes, the scientists said.

"The size of this population is mind-boggling," said Adalgisa Caccone, a senior research scientist at Yale University and the expedition's geneticist, said of the Wolf tortoises. "I am optimistic that some of these animals will have high conservation value."

Genetics is increasingly a key component of conservation management worldwide, said Dr. Linda Cayot, science adviser for the Galápagos Conservancy, which helped sponsor the expedition with the Galápagos National Park Service.

But "this is the first time that genetic information has been used so determinedly," she said, to manage a species and its environment.

With captive breeding and luck, new populations of tortoises could be released on Pinta and Floreana Islands in five to 10 years, helping to restore their lost ecosystems, Dr. Cayot said. Because tortoises cruise close to the ground, they disperse seeds and other nutrients that keep the land healthy.

Photo Two saddlebacked tortoises that were captured and taken to Santa Cruz Island for a breeding program. Credit Dr. Joe Flanagan

The expedition to Wolf Volcano occurred over the last 10 days of November under the direction of James P. Gibbs, a professor of vertebrate conservation at the State University of New York in Syracuse. Nine three-person teams were deployed over a 20-square-mile area.

It was rough going, with razor-sharp lava underfoot, and ticks and wasps all around.

The teams were looking for tortoises with the most prominent saddlebacks: shells rising up in front, like saddles, to accommodate the animals' extremely long necks for grazing on tall cactuses. The hope is that animals with characteristic shells will have the highest levels of Pinta and Floreana DNA.

Two teams found "hot spots" of saddlebacks at the southern end of the search area with low-lying, dry vegetation, Dr. Gibbs said. The best specimens were captured relatively close to one another.

The pattern is remarkable, Dr. Gibbs said. After being jettisoned into Banks Bay more than a century ago, the saddlebacks have not moved more than a few miles. They found food and water, so why bother?

In all, the expedition discovered more than 100 giant tortoises that share George's distinctive saddleback shape. When a team captured a tortoise with an ideal saddleback, they called the expedition's ship, anchored in Banks Bay. A helicopter then fetched the animal in a cargo net.

Scientists took 32 tortoises with the most spectacular saddles to a breeding center on Santa Cruz Island. The captured tortoises include 21 females and 11 males, each weighing 100 to 300 pounds. Most appear to be 30 to 40 years old, Dr. Gibbs said, though a few could be much, much older.

Seven of the animals tagged and analyzed in 2008 were retrieved — one male and one female with Pinta DNA, and one male and four females with Floreana genes. "We are planning to go back next year to look for more," Dr. Gibbs said.

Today, the female tortoises are housed in Lonesome George's corral. The males are next door in a tourist pen.

"They are very busy, very happy, exploring and doing aggression displays," Dr. Caccone said. "Males stand on three legs, necks raised as high as they can go, and hiss at each other."

The next step is to analyze each animal's DNA to separate the two species and find those with the least mixed ancestry. Then the breeding program can begin.

"If I had the money and people, it would take me a month" to do the analysis, said Dr. Caccone, noting the expedition's tight budget. Realistically, she said, it may take a year or more.

One of the males is a doppelganger for Lonesome George, said Elizabeth Hunter, a postdoctoral researcher on the expedition from the University of Georgia. When first captured, he raised himself up in a classic George pose.

He is now showing off for tourists, just like the old George.

NYT

Puerto Rico's Embattled Governor Says He Won't Run for 2nd Term

By LIZETTE ALVAREZ

DEC. 14, 2015

Photo Puerto Ricans watched a televised speech by Gov. Alejandro García Padilla on Monday in which he announced that he would not run for re-election. Credit Alvin Baez/Reuters

MIAMI — With Puerto Rico's debt-ridden economy still in crisis and his administration mired in scandal, Alejandro García Padilla, the island's embattled governor, announced on Monday that he would not seek re-election in 2016.

In a brief message tinged with anger toward his critics, including members of his own party, Mr. García Padilla, 44, defended his record as governor and lashed out at his predecessors, who he said helped plunge Puerto Rico into runaway debt. The governor said he chose not to run for a second term so he could focus solely on the economy, jobs and trying to find a way to restructure the island's \$72 billion debt.

"What is incomprehensible," Mr. García Padilla said, "is that the same people who took and spent those loans and didn't leave behind anything to pay them back now criticize those who didn't take the loans and are now trying to pay them back." The governor called on Puerto Ricans to accept the politically difficult decisions that require greater "loyalty to the future than to the past." Those decisions are likely to include layoffs, higher taxes, more cuts in pensions and the possibility that a federal control board may take over the island's finances. "Big causes require big sacrifices," Mr. García Padilla said.

In rejecting a run for a second term, Mr. García Padilla, a member of the Popular Democratic Party, which supports continued commonwealth status, joins a line of governors from the two leading parties who have served only one term since the island sank into a decade-long recession. His two predecessors lost re-election after voters disapproved of their handling of the economic crisis, among other things.

The governor's prospects for a second term were dim. A recent survey found that 12 percent of Puerto Ricans had a positive view of the governor, and he faced criticism from some members of his own party, who pressured him to step aside for other P.D.P. candidates.

Mr. García Padilla, considered an outsider when he was elected, was also hurt by a recent corruption scandal. The scandal has embroiled the leading fund-raiser for the governing party, who is also a close friend of the governor's brother. A federal indictment, issued this month, laid out a pattern of alleged cronyism and patronage inside the governor's administration.

"I think all the governors, including García Padilla, have the goal of trying to resolve these problems until they realize what it costs to resolve them — especially the political costs," said Orlando Sotomayor, an economist at the University of Puerto Rico.

Swept into office by a slim margin in 2012, Mr. García Padilla inherited an island overrun with debt, hit hard by the loss of manufacturing federal tax breaks and jolted by a major spike in murders. Since 2011, the island's population of 3.5 million has dropped 1 percent to 2 percent each year as Puerto Ricans, who are United States citizens, have moved to states like Florida and Texas. There are now more Puerto Ricans living outside the island than on it.

Mr. García Padilla pledged not to lay off government workers, as occurred under his predecessor, Luis Fortuño. Instead, he tried to increase revenue and stimulate economic development by raising taxes on businesses and individuals, offering tax breaks to wealthy American investors, and requiring government workers to contribute more toward their pensions. Many of these measures proved unpopular.

All the while, the situation has grown worse. The government said this month that it may not be able to make the next payment on its debts.

On Monday, Mr. García Padilla pointed to large drops in the murder rate, an increase in tourism, a jump in agricultural production and a 15,000-person reduction in the government work force without layoffs. With Puerto Rico unable to borrow any more money, the governor was also the first in a long time to cobble together a budget that did not rely on huge loans.

But he has failed in trying to get bond holders to renegotiate the debt or Congress to give Puerto Rico's government utilities and other agencies access to bankruptcy laws, something supported by the Obama administration. A move is afoot among Republicans in Congress to offer some forms of relief while requiring a federal financial overseer to ensure that austerity measures are enacted.

"In some way, shape or form, I suspect there will be federal control of the Puerto Rican economy," said Amilcar Barreto, a political science professor at Northeastern University. "It's going to be a traumatic experience for the Puerto Rican political system."

The HOVENSA deal: What's in it for the V.I.

15 Dec 2015

The Virgin Islands Daily News

By JOY BLACKBURN Senior/Investigative Reporter

Complex agreement contains incentives for both the V.I. government and buyer ArcLight
Terms and payment

ST. CROIX — Worth hundreds of millions of dollars, the proposed operating agreement between the V.I. government and ArcLight Capital Partners' Limetree Bay Holdings for the HOVENSA site on St. Croix's South Shore goes before the 31st Legislature this week.

Daily News File Photo The V.I. Legislature on Wednesday will consider whether to approve the deal ArcLight Capital Partners brokered in bankruptcy court to buy the HOVENSA facility on St. Croix.

The Senate calendar as of Monday night had senators scheduled to go into Committee of the Whole on Wednesday to take testimony on the proposed deal and then meet for a Special Session on Thursday to possibly take action — although the schedule could change.

A federal judge last month selected ArcLight's Limetree Bay as the successful bidder in a bankruptcy auction for HOVENSA's assets, with Buckeye Partners chosen as the backup bidder if the Legislature rejects Limetree Bay.

Limetree Bay has negotiated a proposed operating agreement with the government for the Legislature to consider; Buckeye has not.

Limetree Bay wants to operate the oil storage terminal at the HOVENSA site, and may consider restarting some refinery units.

The purchase agreement for Limetree Bay to buy HOVENSA is separate from the proposed operating agreement with the government that the Legislature will consider, although the two agreements are interrelated.

The V.I. government is not the seller of the property, but a ratified operating agreement with the government is a requirement for the sale to close.

The operating agreement sets out the rights and responsibilities of the government and Limetree Bay moving forward after the sale.

Limetree Bay Holdings is a subsidiary of ArcLight that was formed in September to serve as the initial bidder for HOVENSA's assets when HOVENSA filed for Chapter 11 bankruptcy protection.

Limetree Bay Holdings is the company proposing to buy HOVENSA, although officials have been using the names "ArcLight" and "Limetree Bay" interchangeably.

ArcLight, which was founded in 2001, helped pioneer an asset-based private equity approach to investing in the North American energy sector. It has invested approximately \$13 billion in 90 transactions since inception, according to information from the company.

The 64-page proposed operating agreement with the government — also sometimes called a concession agreement because of the tax concessions contained in its pages — contains a multitude of provisions, from a cash infusion for the government when the sale closes to minimum employment levels and annual variable payments to the government.

The initial term of the agreement is 25 years, with an option for Limetree Bay to extend that for an additional 15 years, provided the company gives proper notice and is in compliance with its obligations.

The deal calls for a significant cash payment to the V.I. government at closing, up to \$235 million. That includes: • \$100 million to the government under the separate purchase agreement, intended to more than cover the \$40 million secured claim the V.I. government has against HOVENSA, as well as other unsecured claims the government has in HOVENSA's bankruptcy case.

- \$120 million more to the government, as a payment in lieu of taxes for certain taxes that are waived in the agreement. Although the \$120 million payment in lieu of taxes is to be paid at closing, if that amount were divided by the initial 25 year term of the agreement, it equals \$4.8 million per year. If divided by the full 40 years, it amounts to \$3 million per year.

- Up to \$9 million in reimbursement to the V.I. government for potential payment of a disputed amount between the law offices of John Dema and the government.

- Up to \$6 million in the form of constructing a bitumen tank and storage for the government, appropriate for storing at least 100,000 barrels of bitumen, which is asphalt

Under the agreement, Limetree Bay must provide the equipment, infrastructure and access necessary for the long-term storage, loading and off-loading of bitumen for use by the V.I. Public Works Department.

The tank is to be operational within a year of the date Limetree Bay completes operations, and is to be leased to Public Works for rent in an amount equal to Limetree Bay's cost of operating the tank.

Tax exemptions

The proposed agreement exempts Limetree Bay from most V.I. taxes, including income, excise, fuel, Gross Receipts, highway users', production, property and franchise taxes.

It also exempts Limetree Bay from customs duties, annual report fees and license fees.

Instead, the agreement calls for Limetree Bay to make variable annual payments to the government.

The annual payments are to be from 9 percent to 10 percent of the company's revenues from oil storage terminal operations.

The proposal also sets out minimums for the variable payments by year of operation, with minimum payments set at \$4 million the first year; \$5 million the second year; \$6 million the third year; and \$7 million the fourth year and afterward.

The determining factor on what rate applies to the variable payment — 9 percent or 10 percent — is whether Limetree Bay's earnings before interest, taxes, depreciation and amortization are lower than \$120 million. If they are, the 9 percent applies. If they are above the \$120

million mark, the 10 percent applies.

Limetree Bay is to make the variable payments on a quarterly basis at the rate applicable in the previous

year. If the amount paid is too high or too low after audited financials are issued for the year, there will be a true-up.

As for the refinery portion, if there is a refinery restart, the operator of the refinery is to make a variable payment annually to the V.I. government amounting to 17.5 percent of refinery income, or another amount the parties agree to in writing.

Employment requirements

The proposal calls for Limetree Bay to employ a minimum of 80 fulltime equivalent workers, with a minimum of 60 full-time employees.

Under the agreement, after a year of operation, at least 80 percent of full-time workers and at least 50 percent of senior management employees must be V.I. residents.

However, one of the definitions of a V.I. resident is someone who has resided in the territory for at least a year, meaning that anyone who moved to the territory and worked for

Limetree Bay for the first year would be considered a V.I. resident when the requirement for employing local workers becomes effective.

The definition of V.I. resident in the agreement is broader, though, aimed at possibly drawing former residents back. It includes anyone who attended school in the V.I. for at least six years or who is a high school or University of the Virgin Islands graduate and is registered to vote in the territory.

Individuals who were formerly employed by HOVENSA, Hess Oil Virgin Islands Corp, or Pinnacle Services, LLC for work at the refinery or terminal in the past five years also would qualify as residents.

Charitable contributions

Other requirements for Limetree Bay in terms of training, continuing education and charitable contributions include:

- Making annual contributions of

at least \$200,000 for training and scholarships for residents of the territory, including resuming support for a UVI degree program in applied science of process technology, and college scholarships to V.I. students,

- Making commercially reasonable efforts to provide training programs to maximize employment opportunities at the terminal for V.I. residents,
- Making \$300,000 in annual charitable contributions to nonprofits and charities on St. Croix, subject to approval by the governor.

Possible refinery restart

The agreement calls for Limetree Bay to make significant capital investments in the HOVENSA property during the first two years and to consider a possible restart to some refining operations.

Under the proposed deal, the sale is to close no later than Jan. 15, unless the date is otherwise extended by mutual agreement.

The agreement also calls for Limetree Bay to commence operations within six months of closing, subject to certain conditions, including obtaining the required federal and territorial authorizations and permits.

If it does not meet that deadline, Limetree Bay — under certain circumstances — would be required to pay the government a \$500,000 fee for every 30 days it is late in starting operations.

During the first two years after the sale closes, the agreement requires that Limetree Bay expend at least \$125 million for projects that result in improvements to the site.

Also, during at least the first 18 months after the agreement is effective, Limetree Bay would be required to “evaluate the prospects of a refinery restart, and shall take all commercially reasonable measures to facilitate such refinery restart.”

Restart or deconstruction

If Limetree Bay, despite efforts by the company and the government, would be subject to liability under the Clean Air Act consent decree, the refinery evaluation period could be terminated before the end of 18 months.

In any case, the evaluation period is not to last more than three years.

If by the end of that time, no restart has occurred or is planned, Limetree Bay has three years to start and finish the deconstruction of the aboveground refinery that is unused and not necessary for the oil storage terminal operation.

With the purchase agreement, Limetree Bay is buying the aboveground portion of the refinery, but it may opt after deconstruction to buy the land from HOVENSA for \$1 per acre.

Under the proposed operating agreement with the government, Limetree Bay would pay for the deconstruction.

If any structures, fixtures, equipment or machinery are sold during the deconstruction, under the operating agreement, the first \$5 million of net proceeds would go to Limetree Bay, with 50 percent of net proceeds after the first \$5 million going to the V.I. government.

HOVENSA — a look back

The V.I. Legislature authorizes a tax benefits package for Hess Oil Virgin Islands Corp. — HOVIC — which agrees to build an oil refinery with an initial investment of \$10 million and employ 125 people. The benefits would run for 16 years and include 100 percent exemption from real property and gross receipts taxes; 100 percent subsidy on customs duties on imported materials; and a 75 percent subsidy on income taxes.

Ground is broken

September 1965:

August 1979:

for a \$20.5 million container port to be built by HOVIC and turned over to the V. I. government.

HOVIC announces \$250 million expansion of the refinery.

May 1980:

Catalytic cracker is completed at a cost of \$1.2 billion.

John Hess, Leon Hess' son, takes over as chairman and chief executive officer of New York-based Amerada Hess, HOVIC's parent company.

1993:

May 1995:

October 1998:

Petroleos de Venezuela buys 50 percent of HOVIC. The joint venture is renamed HOVENSA, which agrees to build a \$500 million petroleum coker to refine heavy Venezuelan crude oil.

Ground-breaking for \$530 million petroleum coker plant.

Construction on the petroleum coker plant — with a total cost of about \$600 million — is completed.

June 2000:

July 2002:

Petroleum coker plant up and running at full capacity, allowing HOVENSA to process

August 2002:

115,000 barrels of heavy crude oil daily, with a total production capacity of more than 500,000 barrels per day.

HOVENSA sells \$126.8 million worth of taxexempt bonds to help finance the construction of the petroleum coker plant.

November 2002:

The V.I. Public Finance Authority board of trustees approves the sale of \$50.6 million in tax-exempt bonds to help HOVENSA refinance outstanding loans used to

February 2004:

build the petroleum coker plant.

HOVENSA begins work on a \$195 million lowsulfur gasoline unit — a facility to meet new federal standards for less sulfur in gasoline and diesel fuel.

HOVENSA marks its 40th anniversary operating on St. Croix with a large celebration in Frederiksted.

November 2005:

October 2006:

Three separate releases from HOVENSA cause disturbances in surrounding residential communities.

September 2010:

Hydrocarbons and hydrogen sulfide are released by the refinery, prompting hundreds of students at St. Croix Central High School to leave school sick.

The U.S. Environmental Protection Agency and U.S. Justice Department file a consent decree against HOVENSA in U.S. District Court, requiring the company to pay more than \$10 million in penalties and invest \$700 million in upgrades and technologies to significantly reduce emissions.

December 2010:

January 2011:

HOVENSA announces it will shut down nine processing units on the western end of the refinery, reducing HOVENSA's output capacity from more than 500,000 barrels a day to 350,000 barrels a day. The refinery fires 86 direct employees as a result.

January 2011:

HOVENSA announces it will shut down the refinery after three straight years of operating at a loss and operate the facility as an oil storage terminal. More than 2,000 workers are given

Jan. 18, 2012:

90 days notice that they will be let go.

Gov. John deJongh Jr. announces that the V.I. government and HOVENSA have worked out an interim agreement in principle that would give the parties more time to negotiate a long-term agreement. The interim agreement contains provisions under which HOVENSA will supply the V.I. Water and Power Authority with discounted fuel through the end of 2012; will keep open its truck-loading rack, where local gas station owners can obtain their fuel; and will be allowed to operate for the time being as an oil storage terminal.

March 2012:

DeJongh gives a televised speech calling on HOVENSA officials to reopen the refinery or sell it.

August 2012:

DeJongh announces that the interim agreement has been extended until Feb. 28 and that HOVENSA will continue to supply wholesale gasoline at its truck rack on St. Croix through that time.

Dec. 15, 2012:

Government House says that HOVENSA has agreed to put the refinery up for sale, with details of how that will occur to be negotiated. The interim agreement is extended until March 31.

Feb. 19, 2013:

Government House announces that it has reached an agreement in principle with HOVENSA and that there will be an extension in the interim agreement.

Government House announces that the agreement has been put in writing and releases a few details about the proposal. Government House spokesman Jean Greaux Jr. says the agreement will not be released to the public until it has been signed by all the parties.

March 30, 2013:

April 7, 2013:

Officials say the delay in getting the agreement signed is coming from the Venezuela contingent.

June 2, 2013:

Government House announces that deJongh has submitted a fully executed agreement to the Legislature for ratification.

July 13, 2013:

The Senate Committee of the Whole holds hearings on St. Croix and St. Thomas on the proposed agreement, taking testimony from government and HOVENSA officials, as well as from members of the public.

The 30th Legislature rejects the proposed agreement by an 11 to 3 vote, with one senator absent.

July 21-22, 2013:

Aug. 7, 2013:

The Senate adopts a resolution detailing what changes lawmakers want to see in the proposed Fourth Amendment Agreement with HOVENSA and urges deJongh to re-examine negotiations with the company.

DeJongh resubmits the Fourth Amendment Agreement to the Senate, along with a letter addressing the concerns raised by senators after they rejected the agreement in August.

By a narrow margin — 8 to 7 — the Senate agrees to ratify the Fourth Amendment Agreement between HOVENSA and the V.I. government and possibly jump start the sales process.

Sept. 30, 2013:

Oct. 17, 2013:

Nov. 4, 2013:

DeJongh Jr. signs the Fourth Amendment Agreement between the V.I. government and HOVENSA.

Nov. 7, 2013:

Senators who met with deJongh say viable potential buyers have expressed interest in purchasing the shuttered HOVENSA refinery. The legislators say few specifics were discussed, because much of the process is confidential, but they are hopeful a sale could be in the works by the end of the year.

April 23, 2014:

The end of the sales process period passes quietly, with no fanfare and no mention of a possible sale of the facility on St. Croix's south shore. Government House releases a statement indicating that the sale period would be extended until Aug. 30.

HOVENSA's owners request another extension to the sales process period, but attorney George Dudley, local counsel for HOVENSA, Hess Oil Virgin Islands Corp. and PDVSA, declines to answer questions about the length of the requested extension.

Aug. 15, 2014:

Aug. 30, 2014:

HOVENSA reaches an agreement in principle with a buyer, and the V.I. government is set to begin negotiating with the entity on an operating agreement. The company — whose name is not disclosed — wants to re-open and operate the facility as a refinery, according to deJongh, who says he hopes to present a proposed operating agreement to the 30th Legislature before the end of the year.

Following a meeting between deJongh and senators at Government House in

Sept. 14, 2014:

Oct. 27, 2104:

Christiansted, the V.I. government announces it has a tentative agreement with Atlantic Basin Refining — ABR VI — to purchase the refinery and has also reached agreement with the new buyers on a detailed operating agreement that will define their rights and obligations going forward.

At a special session called by deJongh for the 30th Legislature to consider ratifying the agreement, senators vote unanimously to send the agreement to the Finance Committee for further review.

Nov. 12, 2014:

Senators say they need more time and more information to do their due diligence, and they request additional information from the government and the parties to the agreement.

The Finance Committee forwards the proposed operating agreement to the full body for an up or down vote.

Dec. 16, 2014:

The 30th Legislature rejects the agreement between the V.I. government and ABR VI.

Dec. 19, 2014:

The owners of HOVENSA — Hess Oil Virgin

Dec. 29, 2014:

Islands Corp. and PDVSA V.I. — file separate lawsuits in federal court, seeking more than \$236 million from the V.I. government, which the companies contend they are owed in tax refunds.

Gov. Kenneth Mapp announces during a press conference that he has directed the V.I. government's legal counsel to proceed with foreclosing on the HOVENSA property and to reopen a natural resources damages case against the shuttered refinery stemming from groundwater contamination.

Jan. 15, 2015:

The V.I. government asks the court to appoint a receiver to preserve and organize HOVENSA's assets and property, to make the refinery pay up front for the costs of the receiver's efforts and to remove HOVENSA from the refinery property.

Mapp sends proposed legislation to the V.I. Legislature seeking a \$1 million appropriation to hire outside lawyers to launch a legal battle against Hess Oil, HOVENSA, Petroleos de Venezuela and related entities.

Week of Jan. 30, 2015:

Feb. 4, 2015:

HOVENSA lays off its last 101 employees, along with 69 contractoremployees.

Daily News File Photo Workers enter the HOVENSA plant on St. Croix's south shore in January 2011 after the refinery announced it would shut down operations by March of that year and let go of more than 2,000 employees.

March 1, 2015:

The 31st Legislature passes legislation appropriating \$1 million from any available funds to the Governor's Office to pay legal costs connected to the lawsuit against HOVENSA.

The owners of HOVENSA file a flurry of lawsuits against the V.I. Internal Revenue Bureau challenging determinations by the IRB in December that the companies still owe the government taxes for 2008 and 2010. Hess Oil Virgin Islands Corp. and PDVSA V.I. file a separate lawsuit for each tax year.

March 11, 2015:

March 27, 2015:

The V.I. government hires Winston & Strawn, its Washington D.C. lawyers, as outside legal counsel in the tax disputes with HOVENSA.

June 2015:

V.I. Superior Court is working to organize and move through the system more than 700 complex toxic tort cases remaining from the operation of HOVENSA, some of them going as far back as the 1990s, Superior Court Presiding Judge Michael Dunston says during a Senate Finance Committee meeting.

Judge J. Paul Oetken, a U.S. District judge for the Southern District of New York, tosses out the case that Hess Oil Virgin Islands Corp., or HOVIC, had filed there against the territory and the V.I. Internal Revenue Bureau, making the U.S. Virgin Islands the battleground in a lawsuit contending the V.I. government owes Hess Oil Virgin islands Corp. an \$83.5 million tax refund.

June 24, 2015:

July 2, 2015:

Mapp announces that HOVENSA has reached an agreement with Limetree Bay Holding, an affiliate of ArcLight Capital Partners, to sell a portion of the refinery for \$184 million. HOVENSA said it will complete the sale after filing for Chapter 11 bankruptcy reorganization in an auction under Section 363 of the U.S. Bankruptcy Code.

Sept. 14, 2015:

Mapp announces that the V.I. government has filed a lawsuit against HOVENSA seeking \$1.5 billion.

Sept. 14, 2015:

HOVENSA files for Chapter 11 bankruptcy, estimating its financial liabilities at more than \$1 billion.

As bankruptcy proceedings begin, U.S. Bankruptcy Judge Mary Walrath gives interim approval for a \$40 million loan to HOVENSA. The so-called Debtor in Possession financing of \$40 million for HOVENSA will come from its owners, Hess Oil Virgin Islands Corp., or HOVIC, and PDVSA V.I.

Documents from HOVENSA's Chapter 11 filing reveal the refinery gave payments of

Sept. 15, 2015:

Sept. 17, 2015:

October 2015:

more than \$1.6 million in salaries, bonuses, severance packages and other financial incentives to three top officers: general manager Sloan Schoyer; chief legal officer Franklin Quow; and acting chief financial officer Timothy Carlson.

Buckeye Partners confirms it wants to purchase the oil storage terminal when it files an objection in HOVENSA's Chapter 11 bankruptcy case, taking issue with the procedures the company wants to use as it sells off its assets.

Hess Corporation asks a federal judge to transfer the \$1.5 billion lawsuit filed by the V.I. government to U.S. Bankruptcy Court.

Oct. 5, 2015:

Oct. 16, 2015:

Buckeye Partners and Limetree Bay Holdings begin the auction process in New York to purchase the refinery's oil storage terminal.

Nov. 10, 2015:

ABR files suit against ArcLight Capital Partners, claiming ArcLight had agreed to provide financing for ABR's purchase attempt but then took their proprietary plans and stole the deal, entering its own proposal for purchasing a portion of the refinery.

At a court hearing after the auction is conducted over portions of four days, HOVENSA presents ArcLight's Limetree Bay as its choice for the successful bidder, a choice that was supported by HOVENSA's owners and the V.I. government. Buckeye raises concerns about how the auction was conducted, and the Committee of Unsecured Creditors verbally objects to the sale, voicing concerns over possible bid-chilling

Nov. 16, 2015:

Nov. 19, 2015:

and collusion during the auction and saying it needs time to investigate. Walrath reschedules the sale hearing for Dec. 17.

Mapp and the Governor's Office are served with subpoenas for providing deposition testimony and documents, including communications, related to the sale process and bidders in the HOVENSA auction.

Mapp says he hopes to have an operating agreement inked with ArcLight by the following week. The bankruptcy court has not yet named a successful bidder in the auction.

HOVENSA files notice with the Bankruptcy Court that its sale hearing will move forward on Nov. 30 — which suggests that the objection to the sale of its assets may have been withdrawn.

After a lengthy hearing, Walrath approves the sale of HOVENSA's facility to ArcLight Capital Partners' Limetree Bay Holdings. Walrath also approved Buckeye as the backup bidder, if the V.I. Legislature should reject the governor's proposed operating agreement with ArcLight, provided Buckeye removes a Federal Trade Commission contingency from its bid and is able to secure an operating agreement with the government.

Nov. 20, 2015:

Nov. 24, 2015:

Nov. 25, 2015:

Nov. 30, 2015:

Mapp has a press conference on the Government's proposed operating agreement with ArcLight and calls the 31st Legislature into special session on Dec. 17 to consider the agreement.

Fuel truck rack promised to reopen

15 Dec 2015

The Virgin Islands Daily News

By JOY BLACKBURN Daily News Staff

ST. CROIX — The agreement between Limetree Bay Holdings and the V.I. government would mean the restart of the fuel truck rack on St. Croix.

Daily News File Photo A tanker truck enters the HOVENSA complex on St. Croix.

The deal aims to secure a ready fuel supply for the territory by requiring that Limetree Bay ensure that the fuel loading rack at the HOVENSA site offers gasoline, diesel and jet fuel to the government and to the public for purchase in tanker truck quantities.

However, the proposed agreement does not lay out a specific formula for determining the wholesale price of the fuel sold at the truck racks.

Instead, it requires that the prices be "equal to or below retail market prices," but does not define "retail market prices."

The proposal does say that to the extent that Limetree Bay is engaged in the business of buying, selling or trading refined fuel products for its own account, that the rack must be

supplied with gas, diesel and jet fuel at prices equal to or below the lowest price at which Limetree Bay sells comparable fuels in similar quantities to third-party purchasers on a retail basis.

For many years in the territory, the price at the refinery's truck racks had a direct impact on the retail price of fuel at the pumps in local gas stations.

After HOVENSA said it would be shutting down the rack, though, retailers in the territory began importing their fuel, typically from Puerto Rico.

It is not clear how, if the agreement is approved, the rack rates may compare to the prices for buying fuel from Puerto Rico.

The proposed agreement also allows Limetree Bay to have a third party maintain and operate the fuel loading rack and requires that Limetree Bay enter into commercial arrangements with third parties to maintain in storage at the terminal at least the average monthly needs of the territory in gasoline, diesel and jet fuel.

The proposal makes clear that operating the fuel rack is a material provision of the agreement.

It notes that closure of the fuel rack or eliminating storage for local fuels — outside of routine maintenance or an act of God — could be considered by the government to be a material impairment of the territory's economy, permitting the territory to look to all available remedies under the law.

At 64 pages, deal is complex

15 Dec 2015

The Virgin Islands Daily News

The V.I. government would receive at closing a 330-acre parcel of land east of the refinery, 122 housing units located in estates Cottage and Blessing, the community center and the St. Croix Vocational training center located on the site.

The proposed operating agreement between the V.I. government and ArcLight Capital Partners' Limetree Bay Holdings is complex and lengthy, at 64 pages, and covers many different contingencies. Among its many provisions: • Limetree Bay Holdings must provide navigational access to the Limetree Bay Channel — but not the terminal loading docks, buoys or other marine installations — to commercial vessels en route to and from the Gordon Finch Molasses Pier and the Wilfred Allick Port and Transshipment Terminal, subject to certain conditions. Those conditions include reimbursement by commercial vessels of Limetree Bay Holdings' reasonable cost and expense of providing such access.

- Limetree Bay Holdings would be assigned the rights and obligations of the V.I. government's submerged land leases and permits that HOVENSA had, with the annual rental payment to the government set at \$150,000. Previously, the payment had been \$1 per year. Under the agreement, after the third year, the \$150,000 payment would be adjusted annually for inflation.

- The V.I. government would receive at closing a 330-acre parcel of land east of the refinery, 122 housing units located in estates Cottage and Blessing, the community center and the St. Croix Vocational Training Center located on the site. Within 10 years of closing the deal, Limetree Bay Holdings would have an option to purchase a portion of the land parcel back for \$10,000 per acre, for expanding or improving its operations.

- Limetree would be required to use reasonable efforts to obtain and maintain all necessary federal, territorial and local authorizations and modifications to restart and maintain terminal operations, including modifications to the Clean Air Act consent decree in federal court.

- The V.I. government is to provide permits and rights required to enable Limetree Bay to install one or more buoys and facilities capable of servicing very large crude carrier vessels. The V.I. government is also to facilitate required authorizations from federal agencies.

- Limetree Bay Holdings would be allowed to modify, expand, replace and operate power generation facilities at the site to provide appropriate power generator resources. If there is excess power generation capacity, and the government requests it, Limetree Bay Holdings would work to identify means of using that excess capacity for the benefit of the territory.

- Limetree Bay Holdings must provide the government with financial assurance for \$30 million to support its obligations under the agreement for site restoration and payment default. The financial assurance must come either in a standby letter of credit or a guaranty from a parent company.

- Limetree Bay Holdings must secure its payment obligations, including its obligations should it default, with a mortgage lien on the assets, which would be subordinate to any financing the company obtained for acquiring, developing, constructing and enhancing the facility.

- If there should be a change of control or sale of the terminal, Limetree Bay Holdings would pay the government 10 percent of the transaction value. If there is any total realized profit from the sale, the government's share would be a minimum of \$25.5 million.

Article rank 15 Dec 2015 The Virgin Islands Daily NewsBy JOY BLACKBURN — Contact Joy Blackburn at 714-9145 or email jblackburn@dailynews.vi. Senior/Investigative Reporter St. Croix not slated to have a say on deal ST. CROIX — As of Monday night, it was not clear whether the 31st Legislature would hear from St. Croix residents about the proposed operating agreement between the V.I. government and the company that wants to buy HOVENSA.

The Senate is scheduled to conduct a Committee of the Whole meeting on St. Thomas on Wednesday to take testimony on the proposed operating agreement between the V.I. government and ArcLight Capital Partners' Limetree Bay Holdings.

Gov. Kenneth Mapp called a special session for Thursday for senators to consider the agreement and one other piece of legislation.

That session is scheduled, but it wasn't clear whether lawmakers planned to act on the agreement then or postpone action and schedule a Committee of the Whole meeting on St. Croix.

St. Croix would be most affected by operations at the HOVENSA site and by the agreement.

However, if the senators conduct a hearing on St. Croix, they would have to return to St. Thomas to take action,

as that is where Senate sessions, by law, must be held.

Senate majority leader Sammuel Sanes said that majority members were caucusing Monday night and likely would decide how they would move forward with scheduling matters.

At press time, Sanes did not have further information.

Mapp has said the agreement needs to be acted on by Dec. 31.

HOVENSA, which is in Chapter 11 bankruptcy proceedings, has said it will run out of cash at some point in January.

Ryan Nugent, a spokesman for Senate President Neville James, said the plan on Monday was to possibly take testimony from the public during the Committee of the Whole hearing on St. Thomas on Wednesday.

He said a sheet would be circulated for people to sign up, and he advised anyone who wants to testify to bring a copy of their testimony for senators to follow along.

Invited testifiers for Wednesday's meeting include officials with Limetree Bay, ArcLight Capital Partners, Freepoint Commodities, and members of the government's legal team and financial teams.

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